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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,190	03/29/2001	Martin A. Kenner	56096US002	4518
32692 7590 06/18/2007 3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
			NOTIFICATION DATE 06/18/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/821,190

Applicant(s)

KENNER ET AL.

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-9, 12-26, 28-34 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 12-26, 28-34 and 36-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This communication is in response to amendment filed April 2, 2007 where applicant amended claims 1,18,32. Claims 1-4,6-9,12-26,28-34,36-48 are pending.

Response to Arguments

2. Applicant's arguments filed 4/2/2007 with respect to the claims have been fully considered but are found to be not persuasive.
3. In regards to claim 1, Applicant argues that neither Apfel nor Ballard disclose a content recipient that both automatically initiates a request for posted content and automatically receives that posted content.

In reply, Apfel does disclose this in column 7 lines 1-10 where it is mentioned that the computer will send a query request to a server for an update. And as Applicant pointed out in his remarks, column 11 further mentions that this can be in the background where the request is initiated automatically. This satisfies the broad claim language since the claim fails to detail the extent of automation.

4. In regards to claim 1, Applicant further argues that one of ordinary skill in the art would not be motivated to combine Ballard with Apfel because Ballard teaches manual downloading and thus a notice of the download is not necessary.

In reply, a notice is necessary and desirable so that a user is informed as to the status of their download request (i.e. whether the downloading is completed or not).

Art Unit: 2157

5. In regards to claim 18, Applicant argues that Apfel does not disclose that the upgrades are graphical elements of a web page or that the graphical elements are downloaded without downloading the entire webpage.

In reply, Apfel discloses updating program components of a software (Summary). As shown in the below rejection, "Official Notice" is taken that GUI components of software are old and well known in the art. It is also well known in the art that updating a GUI component of a software may be necessary to correct bugs, add new features, or just to revise the component.

6. In regards to claim 32, Applicant argues that Apfel does not disclose electronically receiving the second program code at the content recipient.

In reply, Apfel discloses that a prompt is received which enables the user to access the content provider server (column 10 lines 23-33&47-60). The limitation "electronically receiving..." is broadly interpreted to be the received prompt.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-4,6-9,18,19,21,26,28-34 and 40-45 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Ballard (US Patent No 6,473,756).**

9. *In reference to independent claim 1*, Apfel teaches a method performed at a content recipient, and a computer readable storage comprising:

executing first program code at the content recipient so as to identify a content provider having posted content of interest to the content recipient (column 6 lines 40-45);

executing second program code at the content recipient so as to automatically initiate a request for the posted content (column 7 lines 1-7);

executing third program code at the content recipient so as to automatically receive the posted content at the content recipient in response to execution of the second program code (column 7 lines 5-10); and

Although Apfel teaches receiving the content (column 10 lines 5-25 & 48-67), Apfel fails to explicitly teach executing fourth program code at the content recipient so as to provide a notice to the content recipient that the posted content has been received at the content recipient in response to execution of the second and third program code. However, Ballard discloses displaying a message to a user indicating that a download is complete for the purpose of keeping the user informed as to the status of their request (column 7 lines 1-7).

It would have been obvious for one of ordinary skill in the art to modify Apfel by providing a notice to the content recipient that the posted content has been received at the content recipient as per the teachings of Ballard for the purpose of keeping the user informed as to the status of their request.

10. *In reference to independent claim 18*, Apfel teaches a computer readable medium, storing code, when executed by a computing device, performs the following functions:

automatically initiating a request for the download of a content element of a web page posted by a content provider (column 2 lines 15-40); and

receiving only the content element in response to the request without receiving the whole web page (column 5 line 60 – column 6 line 5 and Figure 2 #75a).

Apfel fails to explicitly disclose where the content element is a “graphical content element”. “Official Notice” is taken that GUI components of software are old and well known in the art. It is also well known in the art that updating a GUI component of a software may be necessary to correct bugs, add new features, or just to revise the component. Therefore, it would have been obvious for one of ordinary skill in the art to modify Apfel by requesting and receiving graphical content elements for the purpose of correcting bugs, adding new features, or just revising the graphical component

11. ***In reference to independent claim 32***, Apfel teaches a method comprising:

executing first program code at content provider so as to post content for access by a content recipient (column 5 line 60 – column 6 line 5);

executing second program code at content recipient so as to automatically (i) access the content provider and (ii) initiate receipt by the content recipient of the posted content if the posted content is new (column 6 line 63 – column 7 line 10);

executing third program code at the content provider so as to send a message notifying the content recipient that the posted content is not new (column 9 lines 40-50); and

electronically receiving the second program code at the content recipient (column 10 lines 23-33).

12. ***In reference to independent claim 45***, Apfel teaches a method comprising:

executing first program code at content recipient so as to identify a content provider having posted content of interest to the recipient (column 6 lines 40-45);

executing second program code at content recipient so as to automatically initiate a request for the posted content and to automatically download the posted content if the posted content is not new (column 7 lines 1-7 and column 10 lines 47-67); and

executing third program code at the content recipient so as to receive a notice that the content provider has no new content to download to the content recipient (column 9 lines 40-50).

As for the dependent claims:

13. In reference to claim 2,4,6,8 and 33, Apfel teaches the method and computer readable storage of claims 1 and 32 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36).

14. In reference to claim 3,7 and 34, Apfel teaches the method and computer readable storage of claims 1,18 and 32 wherein the executing of the second program code at the content recipient so as to automatically initiate a request for the posted content comprises executing second program code at the content recipient so as to automatically and recurrently initiate requests for the posted content (column 8 lines 22-33 and column 9 lines 15-26 & 50-65).

15. In reference to claim 9, Apfel teaches the method of claim 1 further comprising executing fifth program code at the recipient so as to provide notice to the content recipient that no posted content has been received by the content recipient in response to execution of the second program code (column 9 lines 40-50).

16. In reference to claims 17, 41 and 42, Apfel teaches the method and computer readable storage of claims 1 and 32, electronically receiving the second program code at the content recipient from the content provider (column 6 line 63 – column 7 line 10).

17. In reference to claims 19,21, Apfel teaches the computer readable storage medium of claim 18, wherein the code provides notice that the posted content has been received in response to the request (column 11 lines 1-10).

18. In reference to claims 26,28 Apfel teaches the computer readable storage of claim 18, wherein the stored code when executed, automatically and recurrently initiate requests for the posted content (column 8 lines 22-33 and column 9 lines 15-26 & 50-65).

19. In reference to claim 29, Apfel teaches the method and computer readable storage of claim 18, providing notice that no posted content has been received in response to the request (column 9 lines 40-50).

20. In reference to claims 30 and 31, Apfel teaches the computer of claim 18 wherein the stored program code is electronically received from the content provider and is stored by the computer readable storage medium (column 6 line 63 – column 7 line 10).

21. In reference to claim 40, Apfel teaches the method of claim 32 further comprising executing third program code at the content provider so as to determine whether the content recipient possesses the second program code and, if the content recipient does not possess the second program code, to download the second program code to the content recipient (column 6 line 35 – column 7 line 30).

22. In reference to claim 43, Apfel teaches the method of claim 1, further comprising executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed to a user (Ballard column 7 lines 1-7, see above rationale).
23. In reference to claim 44, Apfel teaches the method of claim 18, wherein the content element comprises a note attached to the web page (column 2 lines 15-60).
24. In reference to claims 46-48, Apfel teaches the method and computer readable storage of claims 1,18,32 respectively, wherein they are performed without providing an e-mail address of the content recipient to the content provider (column 8 lines 39-55).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. **Claims 12,13,15,16,20,22,24,25,28,36,37,39 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Stephens (US Patent No 6,557,026).**

27. In reference to claims 12,20,22 and 36, Apfel teaches the method and computer of claims 1. Apfel fails to teach wherein executing third program code so that the posted content, when received, is displayed behind a session if the session is active. However, Stephens teaches where information can be viewed on a computer by the use of overlaying windows in front of each other. Stephens discloses outputting a window to a display even though the window will not be

Art Unit: 2157

visible to a user where the user can later be alerted of its presence (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60).

It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) behind an active window as per the teachings of Stephens so as to later be alerted of its presence.

28. In reference to claims 13 and 37, Apfel in view of Stephens teach the method and computer readable storage of claims 12 and 36, wherein the executing of the fourth program code at the content recipient comprises executing the fourth code so as to display the notice even if the session is active (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60).

29. In reference to claims 15,16,28 and 39, Apfel in view of Stephens teach the method and computer readable storage of claims 13 and 37 above. Apfel fails to explicitly teach wherein the method further comprises executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content burns through the session so that the posted content is visible to a user; and comprises executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed in front of the session so that the posted content is visible to a user. However, Stephens teaches overlaying windows for multiple active programs. Stephens discloses bringing a window layer to the front of all other layers so that the layer can then be visible to a user (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60).

It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) in front of an active window as per the teachings of Stephens so as to be alerted of its presence.

Art Unit: 2157

30. In reference to claims 24 and 25, Apfel teaches the computer readable storage of claim 18 above. Apfel fails to explicitly teach burning the posted content the posted content through a session so that the posted content is visible to a user; and displaying the posted content in front of the session so that the posted content is visible to a user. However, Stephens teaches overlaying windows for multiple active programs. Stephens discloses bringing a window layer to the front of all other layers so that the layer can then be visible to a user (column 2 lines 3-11 & 53-67 and column 10 lines 20-67).

It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) in front of an active window as per the teachings of Stephens so as to be alerted of its presence.

31. Claim 14,23 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Stephens (US Patent No 6,557,026) in further view of Beyda et al (US Patent No 6,636,965).

Apfel teaches the method of claims 14 and 23. Apfel fails to explicitly teach wherein the notice is an icon. However, Beyda teaches recipients receiving electronic messages. Beyda discloses icons accompanying the messages for the purpose of alerting users of the message (Abstract and column 4 lines 10-20).

It would have been obvious for one of ordinary skill in the art to modify Apfel by making the notice an icon as per the teachings of Beyda complete messages for the purpose of alerting users of the message.

Conclusion

32. Applicant is advised that the above specified citations of the relied upon prior art are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, priority documents and claims) is implied as being applied to teach the scope of the claims.

33. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO

June 10, 2007


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